



The HIGH ROAD

"Preserving public confidence in public servants."

No. 97-5

Hawaii State Ethics Commission

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COMMISSION ELECTS NEW OFFICERS

The State Ethics Commission has elected Leolani Abdul to succeed Bernard LaPorte as the Commission's chairperson for 1997. Mr. LaPorte recently completed his term on the Commission. The Commission also has elected Carl Sakata as vice chairperson.

The current members of the Commission are:

Leolani Abdul, Chairperson
Carl Sakata, Vice Chairperson
Leslie Baker
Kirk Cashmere
Bernice Pantell

COMMISSION EXAMINES ETHICS CHARGES AGAINST LEGISLATORS

Members of the public filed charges against two legislators with the State Ethics Commission. The charges arose from the same situation. The legislators had each used legislative stationery to write to a judge on behalf of a felon who was awaiting sentencing by the judge. The legislators each signed the letter using their state title. The charges made a number of allegations. After examining these allegations, the Commission considered whether the legislators had misused their state positions in sending these letters in violation of the Fair Treatment law. The Fair Treatment law prohibits a state employee or legislator from misusing his or her state position in order to grant an unwarranted benefit to anyone.

The Commission first considered whether it had jurisdiction in this case. The Fair Treatment

law states that it does not apply to legislators who are acting in the exercise of their legislative functions. This language was taken from the state constitution, which states that no legislator may be held to answer before any tribunal for action taken in the exercise of his legislative functions. After examining the legislative history of the Fair Treatment law, the history of the constitutional provision, and case law interpreting congressional immunity, the Commission concluded that the legislators were not exercising legislative functions in sending their letters. For this reason, the Commission concluded that it did have jurisdiction in this matter.

The Commission next considered whether the legislators had violated the Fair Treatment law by sending the letters. The Commission consulted a number of state and federal sources for standards that a legislator must abide by when intervening with a government agency, including a court, on behalf of a constituent. A number of standards were revealed. The standards tended to center around two prongs: A legislator should not threaten retaliation or promise reward in return for agency action, and a legislator should not condition the legislator's assistance on the receipt of any gift or campaign contribution. The Commission applied these two rules to the case before it and concluded that the legislators had not misused their positions in violation of the Fair Treatment law by writing the judge on behalf of a constituent. (Informal Advisory Opinion No. 97-3 and No. 97-4)

LATE FINANCIAL DISCLOSURE FILERS FINED

The State Ethics Commission assessed monetary fines against 25 state

officials who failed to file their annual financial disclosure statements on time. Pursuant to a new law passed by the Legislature this year, the Commission assessed \$50 fines against the late filers. The Commission assessed additional daily fines against 5 state officials who did not submit disclosure statements within 10 days of being notified of their failure to file. The Commission granted waivers of fines to 4 state officials who showed good cause for not having filed their disclosure statements on time.

ETHICS WORKSHOPS STILL AVAILABLE

State employees on Oahu and the Big Island can still register to attend an ethics workshop this year. The Commission will be conducting Honolulu workshops in October, November, and December, and a Kona workshop in October. There are still openings in the November and December workshops in Honolulu, and in the October workshop in Kona. Dates and times for the workshops are as follows:

🌺 Oahu Workshops 🌺

(Keelikolani Bldg., 830 Punchbowl Street)

November 21 (Friday) 8:30 a.m. - 12 noon

December 19 (Friday) 8:30 a.m. - 12 noon

🌺 Kona Workshop 🌺

(Keahole Airport)

October 20 (Monday) 9:00 a.m. - 12 noon

The workshops will be taught by one of the Commission's staff attorneys and will cover the major provisions of the State Ethics Code. To register for an ethics workshop, contact your department personnel office.

DO YOU KNOW HOW ETHICS COMMISSIONERS ARE APPOINTED?

Established in 1968, the Hawaii State Ethics Commission is the oldest state ethics commission in the country. Its members have included educators, members of the clergy, doctors, attorneys, business executives,

community service volunteers, retired government employees, and other distinguished citizens.

The Hawaii State Constitution requires that ethics commissioners be selected in a manner which assures their independence and impartiality. Appointments to the State Ethics Commission begin with the Judicial Council of the Hawaii Supreme Court. The Judicial Council nominates two individuals for each vacancy on the five-member Commission. The nominees' names are submitted to the Governor, who has sixty days to select one of the nominees for appointment. Senate confirmation is not required. Each member's term is four years. Individuals may be appointed to no more than two consecutive terms on the Commission.

Every member of the Commission must be a U.S. citizen and a resident of Hawaii. Members may hold no other public office. Members may not take an active part in political management or in political campaigns during their term of office. Members receive no compensation for their service on the Commission.

NEXT ISSUE: Too Close For Comfort? Nepotism and the State Ethics Code.

Can a state official award a state job or contract to a relative? Can two related individuals work together in the same state office? The next issue of The High Road will discuss how the state ethics laws apply to nepotism and situations associated with nepotism.

The High Road is a publication of the Hawaii State Ethics Commission.

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